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APPLICATION NO.		FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/646,852		08/22/2003	Stephen T. Dybing	NEWZEA.029A	1515
20995	7590	11/30/2006		EXAM	INER
KNOBBE	MARTE	NS OLSON &	WEIER, ANTHONY J		
2040 MAIN				ART UNIT	PAPER NUMBER
FOURTEENTH FLOOR IRVINE, CA 92614				1761	
				DATE MAILED: 11/30/200	6

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)				
	10/646,852					
Office Action Summary	Examiner	DYBING, STEPHEN T. Art Unit				
•	Anthony Weier	1761				
The MAILING DATE of this communication						
Period for Reply						
A SHORTENED STATUTORY PERIOD FOR RE WHICHEVER IS LONGER, FROM THE MAILING - Extensions of time may be available under the provisions of 37 CFF after SIX (6) MONTHS from the mailing date of this communication. - If NO period for reply is specified above, the maximum statutory period for reply within the set or extended period for reply will, by stany reply received by the Office later than three months after the meanned patent term adjustment. See 37 CFR 1.704(b).	B DATE OF THIS COMMUNIC R 1.136(a). In no event, however, may a re- riod will apply and will expire SIX (6) MONT atute, cause the application to become ABA	ATION. ply be timely filed THS from the mailing date of this communication. ANDONED (35 U.S.C. § 133).				
Status						
1) Responsive to communication(s) filed on 0	8 September 2006.					
2a) This action is FINAL . 2b) 1	This action is FINAL . 2b) This action is non-final.					
3) Since this application is in condition for allo		-				
closed in accordance with the practice unde	er <i>Ex parte Quayle</i> , 1935 C.D.	11, 453 O.G. 213.				
Disposition of Claims						
 4) Claim(s) 1-27 and 33-37 is/are pending in the same states of the above claim(s) 28-32 is/are with description of the above claim(s) 28-32 is/are with description of the same states of the s	rawn from consideration.	nent				
Application Papers						
9)☐ The specification is objected to by the Exam	ninor.					
10) The drawing(s) filed on is/are: a) a		v the Examiner.				
Applicant may not request that any objection to	· · · · · · · · · · · · · · · · · · ·					
Replacement drawing sheet(s) including the cor						
Priority under 35 U.S.C. § 119						
12) Acknowledgment is made of a claim for fore a) All b) Some * c) None of: 1. Certified copies of the priority docum 2. Certified copies of the priority docum 3. Copies of the certified copies of the papplication from the International Bur * See the attached detailed Office action for a	ents have been received. ents have been received in Appriority documents have been reeau (PCT Rule 17.2(a)).	oplication No received in this National Stage				
Attachment(s) 1) Notice of References Cited (PTO-892)	4) ☐ Interview Su	ummary (PTO-413)				
 Notice of Neterences Cited (PTO-592) Notice of Draftsperson's Patent Drawing Review (PTO-948) Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date 	Paper No(s)	/Mail Date formal Patent Application				

U.S. Patent and Trademark Office PTOL-326 (Rev. 08-06)

DETAILED ACTION

Supplemental Restrictions

1. Applicant's election without traverse of Species A (claims 1-27 and 33-37) in the reply filed on 9/8/06 is acknowledged. However, upon further consideration of the elected claims, it had been inadvertently overlooked that same contain further species which require a second election. In addition, it appears that the conformational changes set forth in claim 14 are within the scope of Species B and would fall within that species.

Specifically, the elected invention Species A (claims 1-13, 15-17, and 33-37) contains claims directed to the following patentably distinct species:

A1: method of producing a food product which employs adjustment of the ionic composition of the hydrated protein solution to enhance its ability to emulsify fat in water (claims 15-22 and 33-37).

B1: method of producing a food product which employs adjustment of the pH of the hydrated protein solution to enhance its ability to emulsify fat in water (claims 23-26).

The species are independent or distinct because they involve completely different modes of treatment in adjusting the composition of the protein in solution.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1-13 and 27 are generic.

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Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species.

MPEP § 809.02(a).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony Weier whose telephone number is 571-272-1409. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Anthony Weier November 21, 2006 Anthony Weier Primary Examiner Art Unit 1761